

**QUESTIONNAIRE FOR NOMINEES BEFORE THE COMMITTEE ON THE JUDICIARY,  
UNITED STATES SENATE**

1. **Name:** Full name (include any former names used).  
**Answer:** Samuel Der-Yeghiayan
2. **Position:** State the position for which you have been nominated.  
**Answer:** United States District Judge, Northern District of Illinois.
3. **Address:** List current office address and telephone number. If state of residence differs from your place of employment, please list the state where you currently reside.  
**Answer:** 55 E. Monroe Street, Suite 1900, Chicago, IL 60603,  
(312) 353-7313.
4. **Birthplace:** State date and place of birth.  
**Answer:** February 16, 1952. Aleppo, Syria
5. **Marital Status:** (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es). Please also indicate the number of dependent children.  
**Answer:**  
  
Spouse: Becky Der-Yeghiayan (nee Wilson)  
  
Occupation: Administrative Assistant to the Superintendent  
Libertyville School District 70  
1381 W. Lake Street  
Libertyville, IL 60048  
  
Dependent Children: None
6. **Education:** List in reverse chronological order, listing most recent first, each college, law school, and any other institutions of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

**Answer:**

**Certificate**, The National Judicial College, Reno, Nevada (February 2001).

**Juris Doctor**, Franklin Pierce Law Center, Concord, New Hampshire (1975-1978).  
*J.D. Degree* May 1978.

**Bachelor of Arts**, Evangel University, Springfield, Missouri (1971-1975).  
*B.A. Degree* June 1975.

7. **Employment Record:** List in reverse chronological order, listing most recent first, all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or job description where appropriate.

**Answer:**

**IMMIGRATION JUDGE** – United States Department of Justice, Executive Office for Immigration Review (EOIR), Immigration Court, 55 East Monroe Street, Suite 1900, Chicago, Illinois 60603 (2000 – present).

**DISTRICT COUNSEL** - United States Department of Justice, Immigration and Naturalization Service (INS), 55 East Monroe Street, Suite 1700, Chicago, Illinois 60603 (1982-2000).

- **SPECIAL ASSIGNMENT** - American Embassy, Moscow, U.S.S.R. (September-October 1988).

**ACTING DISTRICT DIRECTOR** - United States Department of Justice, Immigration and Naturalization Service (INS), 219 S. Dearborn Street, Chicago, Illinois 60604 (May 1986 - January 1987).

**TRIAL ATTORNEY** - United States Department of Justice, Immigration and Naturalization Service (INS), 219 S. Dearborn Street, Chicago, Illinois 60604 (1978-1982).

**ACTING APPELLATE TRIAL ATTORNEY** - United States Department of Justice, Immigration and Naturalization Service (INS), 5107 Leesburg Pike, Falls Church, Virginia 22041 (January/February 1981; May 1982).

**TEACHING ASSISTANT** - Federal Courts course (Professor Peter W. Brown), Franklin Pierce Law Center, Concord, New Hampshire 03301 (Spring Semester 1978).

**LAW CLERK** - United States District Court, District of New Hampshire, for the Honorable Hugh H. Bownes, U.S. District Court Judge (presently U.S. Court of Appeals Judge, First Circuit), 55 Pleasant Street, Concord, New Hampshire 03301 (May - August 1977).

**RESEARCH AND TEACHING ASSISTANT** - Public International Law and Private International Law courses (Professor Stephen K. Glickman), Franklin Pierce Law Center, Concord, New Hampshire 03301 (1977-1978).

**LEGAL INTERN** - Myers and Brown, Attorneys at Law, 4 Park Street, Concord, New Hampshire 03301 (1977-1978).

**LEGAL INTERN** - R. Peter Shapiro, Judiciary Committee, New Hampshire House of Representatives, 41 Centre Street, Concord, New Hampshire 03301 (1976-1977).

8. **Military Service**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number and type of discharge received.

**Answer:** None.

9. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

**Answer:**

**IMMIGRANT ACHIEVEMENT AWARD** - Received the American Immigration Law Foundation's First Annual Chicago Immigrant Achievement Award honoring immigrants who have made noteworthy contributions to America (2003).

**DISTRICT COUNSEL OF THE YEAR AWARD** - Received the 1998 INS Commissioner's District Counsel of the Year Award.

**OUTSTANDING PERFORMANCE RATINGS** - Awarded Outstanding Performance Rating certificates from the Attorney General of the United States in appreciation and recognition of outstanding service as a Department of Justice Attorney for twenty consecutive years (1981-2000).

**ATHLETIC HALL OF FAME** - Inducted into the Athletic Hall of Fame of Evangel University (1991).

**SUPERIOR ACCOMPLISHMENT AWARD** - Received Superior Accomplishment Awards as a Department of Justice Attorney in recognition of meritorious service performed on behalf of the government (1990;1997).

**NATIONAL ADVOCATES SOCIETY AWARD OF MERIT** - Received the 1990 Award of Merit for outstanding efforts in fairly applying the immigration laws of the United States (1990).

**FRANK J. MCGARR AWARD** - Received the Frank J. McGarr Award of the Federal Bar Association as the outstanding government attorney in Chicago (1986).

**CERTIFICATES OF APPRECIATION** - Chicago Bar Association, Young Lawyers Section (1984-1985; 1987-1988; 1993-94); American Immigration Lawyers Association (1991).

**SPECIAL ACHIEVEMENT AWARD** - Received Special Achievement Award, United States Department of Justice, Immigration and Naturalization Service (1982).

**HONOR LAW GRADUATE** - Selected as an Honor Law Graduate by the United States Department of Justice under the Attorney General's Honor Law Graduate Program (1978).

**LAW REVIEW** - Served on the Law Review Editorial Board, *IDEA - The Journal of Law and Technology*, Franklin Pierce Law Center, Concord, New Hampshire (1976-1978).

**WHO'S WHO IN AMERICAN LAW** - Listed in *Who's Who in American Law* (1979 & 1983).

**ATHLETIC SCHOLARSHIP**, Evangel University (1971-1975).

10. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

**Answer:**

- Illinois State Bar Association (ISBA), Member (1978-1989), Assembly Member (1980 - 1983).
- American Bar Association (ABA), Student Member (1975-1978), Member (1978-1989).

- INS Resource Allocations Committee, 1998-2000.
- INS Special Interest and Terrorist Cases Committee, 1997-2000.
- INS Legal Proceedings Evaluation Guide Committee, 1995-2000.
- INS General Counsel's Management Initiatives Committee, 1994-2000.
- INS Enforcement Counsel National Steering Committee, 1990.
- INS Legal Advisory Committee on Criminal Aliens, 1990-2000.
- INS Employer Sanctions Legal Advisory Committee, 1987-1997.
- INS Commissioner's Committee on Cost Effectiveness in Government, 1988.
- INS Attorney Recruitment Committee, 1981-2000.
- INS Legal Executive Council, 1981-1985.
- INS General Counsel's Awards Committee, 1981-1985.
- INS General Counsel's Legal Case Tracking Committee, 1983-1985.
- Chairman, Citizenship Day and Constitution Week Naturalization Ceremony - Citizenship Council of Metropolitan Chicago, Illinois, 1983-2000.

11. **Bar and Court Admission:** List each state and court in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

**Answer:**

- Supreme Court of the United States (1984).
- United States Court of Appeals, Seventh Circuit (1979).
- United States District Court, Northern District of Illinois (1978).
- United States District Court, Eastern District of Wisconsin (1979).
- Supreme Court of Illinois (1978).
- Admitted to practice in Illinois (1978).

12. **Memberships:** List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, charitable, or other organizations since graduation from college, other than those listed in response to Questions 10 or 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion - either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

**Answer:**

*Phi Alpha Delta Law Society, Franklin Pierce Law Center, Page Chapter (1977-1978).*

*Illinois Police Association (IPA) (1979 - present).*

To my knowledge, the above organizations did not engage and do not engage in discriminatory practices.

13. **Published Writings:** List the titles, publishers, and dates of books, articles, reports, or other material you have written or edited, including material published on the Internet. Please supply four (4) copies of all published material to the Committee, unless the Committee has advised you that a copy has been obtained from another source. Also, please supply four (4) copies of all speeches delivered by you, in written or videotaped form over the past ten years, including the date and place where they were delivered, and readily available press reports about the speech.

**Answer:**

**Publications:**

Author, "Immigration Reform and Control Act of 1986 - INS Enforcement Policies and Procedures." Employment Regulations in Illinois, California Business Law Institute (1987-1995).

Author, "Employer Sanctions - INS Enforcement Policies and Procedures." 27th Annual Immigration and Naturalization Institute. Practising Law Institute (1994).

Co-Author, Chapter on "Immigration and Naturalization Service" - Chicago Lawyer's Court Handbook, Chicago Bar Association Young Lawyer's Section (1987, 1989, 1992, 1997).

**Speaker and Lecturer**

- Midwest Immigrant and Human Rights Center, Training for Pro Bono Attorneys Representing Aliens in Asylum Proceedings - Speaker on representation before the Immigration Court, January 8, 2003, John Marshall Law School, Chicago, Illinois.\*
- United States Department of Justice, Office of Immigration Litigation 6<sup>th</sup> Annual Immigration Litigation Conference, "Immigration and National Security Enforcement and Litigation After September 11, 2001" - Chair, Federal Courts Panel: A View From the District Court, May 9, 2002, Scottsdale, Arizona.\*
- United States Attorney's Law Enforcement Conference – Speaker on Immigration Practitioner Fraud and the Immigration and Nationality Act, April 20, 1999.\*\*
- American Immigration Lawyers Annual Midwest Conference - Panelist on Removal Proceedings, March 12, 1999, Chicago, Illinois.\*
- Cook County State's Attorney Training Seminar – Speaker on Domestic Violence and the Immigration and Nationality Act, December 15, 1998, Chicago, Illinois.\*\*
- Congressional Seminar – Speaker on Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), April 3, 1997, Chicago, Illinois.
- American Immigration Lawyers Association, Midwest Regional Conference – Panelist on Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), March 21, 1997, Chicago, Illinois.\*
- Institute of Business Law – Featured Speaker on Employment Regulations in Illinois, July 13, 1995, Chicago, Illinois.\* See Publication.
- Practising Law Institute, 27th Annual Immigration and Naturalization Institute - Faculty on Enforcement and Litigation Issues in Employer Sanctions, November 18, 1994, Chicago, Illinois.\* See Publication.
- Institute of Business Law - Featured Speaker on Employment Regulations in Illinois, July 4, 1994, Chicago, Illinois.
- Chicago Bar Association – Panelist on "A Day in Immigration Court" seminar, May 3, 1994, Chicago, Illinois.\*

- American Immigration Lawyers Association, Seminar - Faculty on Relief from Deportation, Recent Developments: 212(c), Conditional Residence, Waivers/Removal, February 18, 1994, Chicago, Illinois.\*\*
- Institute of Business Law - Featured Speaker on Employment Regulations in Illinois, July 15, 1993, Chicago, Illinois.\* See Publication.
- American Immigration Lawyers Association, Midwest Regional Conference, Faculty on Conditional Residents, Waivers and Removal, February 12, 1993, Chicago, Illinois.\*\*

**NOTE:** The Lectures and Panel participation were made orally from hand-written notes or typed outlines. I have provided a copy of the conference agenda\* and a copy of the typed outline\*\*, as applicable.

14. **Congressional Testimony:** List any occasion when you have testified before a committee or subcommittee of the Congress, including the name of the committee or subcommittee, the date of the testimony and a brief description of the substance of the testimony. In addition, please supply four (4) copies of any written statement submitted as testimony and the transcript of the testimony, if in your possession.

**Answer:** None.

15. **Health:** Describe the present state of your health and provide the date of your last physical examination.

**Answer:** The general state of my health is excellent. My last physical examination occurred on January 11, 2003.

16. **Citations:** If you are or have been a judge, provide:

- (a) a short summary and citations for the ten (10) most significant opinions you have written:

**Answer:**

- 1) Matter of T-\*, Case No. \* (Oral Decision rendered January 6, 2003).

The respondent, a native and citizen of an African country, was placed in removal proceedings before the Immigration Court. He was found to be deportable but applied for various forms of relief including asylum, withholding of removal, and protection under the Torture Convention. The respondent submitted numerous documents and testified in



support of his applications. The respondent provided evidence that he was a well known member of a pro-democracy group opposed to the dictatorial regime in his country and because of his activities in support of democracy he was persecuted. I found the respondent's testimony to be credible. In addition, I found that the respondent's claim of asylum was corroborated by documentary evidence and U.S. State Department Country Reports on Human Rights Practices in the Respondent's country. I found that the respondent had established his burden of proof on his request for asylum on account of his political opinion and granted his request for asylum as a matter of discretion.

2) Matter of B-H\*, Case No. \* (August 28, 2002 & November 21, 2002).

The respondent, a native and citizen of Libya, applied for asylum in the United States. The INS denied his application and placed him in removal proceedings. On August 28, 2002, after an evidentiary hearing, I found that the respondent had assisted in the persecution of others, denied his request for asylum, and entered an order deporting him to Libya. During the pendency of his appeal, the respondent was detained in the custody of the INS and held with no bond. At a bond redetermination hearing before me on November 21, 2002, I found that the respondent was a danger to the community having cooperated with a terrorism-sponsoring country in the persecution of others. Therefore, I denied his request for a change in custody status and ordered that he be held without bond pending a determination on his appeal.

3) Matter of Nevarez-Arellano, Case No. A37-002-300 (August 16, 2002).

The respondent, a native and citizen of Mexico, was convicted in 1993 in the U.S. District Court, Northern District of Illinois, for the offense of Conspiracy to Distribute Heroin as provided in Title 21 U.S.C. 846. Based upon his conviction, I found that he was deportable as an aggravated felon. He then applied for a Section 212(c) waiver. Even though Section 212(c) of the Immigration and Nationality Act was repealed by Congress in 1996, the U.S. Supreme Court in I.N.S. v. St. Cyr, 121 S.Ct. 2271 (2001), held that "212(c) relief remains available for aliens whose convictions were obtained through plea agreements and who, notwithstanding those convictions, would have been eligible to apply for 212(c) relief at the time of their plea under the law then in effect." After an evidentiary hearing, including the presentation of extensive testimony, I found that the respondent had failed to demonstrate that he warranted a favorable exercise of discretion. Specifically, I found that the respondent's criminal history, including his conviction for a serious crime of drug trafficking and two violations of probation, his lack of rehabilitation, his usage of drugs during his probation, his admission of hitting the mother of his children, the existence of two orders of protection, and his less than forthright testimony, far outweighed the respondent's substantial family ties and long residence in the United States. I denied the respondent's application for a 212(c) waiver and ordered him deported to Mexico.

4) Matter of Flores, Case No. A77-772-102 (Oral Decision rendered August 15, 2002).

The respondent, a native and citizen of Mexico, fled her native country in 1989 to escape extreme poverty which had resulted in the death of her first daughter. At a deportation hearing, she applied for Cancellation of Removal under Section 240A(b) of the Immigration and

Nationality Act (Act). To be eligible for Cancellation of Removal under this section, the respondent must establish 10 years of continuous residence in the United States, good moral character during such period, and exceptional and extremely unusual hardship to qualifying immediate family members who are U.S. citizens or lawful permanent residents if the respondent were to be deported. In addition, the respondent must establish that she merits a favorable exercise of discretion. The respondent demonstrated that she satisfied the physical presence and good moral character requirements. In support of the claim of hardship to her two United States citizen children if she were to be deported to Mexico, she presented evidence that both children suffer from chronic medical ailments and that, through her employee insurance coverage, she is able to provide them with appropriate medical care. Based upon the particularly compelling facts present in this case, I found that if the respondent were to be deported to Mexico, her two United States citizen children would suffer hardship that is substantially beyond that which would be ordinarily expected to result from an alien's deportation. I found that the respondent established statutory eligibility for Cancellation of Removal and granted the requested relief as a matter of discretion.

5) Matter of Silva, Case No. A77-771-828 (Oral Decision rendered July 25, 2002).

The respondent, a native and citizen of Mexico, entered the United States in 1989. During an Immigration Court proceeding she was found to be subject to deportation but applied for Cancellation of Removal under Section 240A(b) of the Immigration and Nationality Act (Act). To be eligible for Cancellation of Removal under this section the respondent must establish 10 years of continuous residence in the United States, good moral character during such period, and exceptional and extremely unusual hardship to qualifying immediate family members who are U.S. citizens or lawful permanent residents if the respondent were to be deported. In addition, the respondent must establish that she merits a favorable exercise of discretion. The respondent demonstrated that she satisfied the physical presence and good moral character requirements. The respondent also presented documentary and testimonial evidence that her two United States citizen children, ages 10 and 13, were good students who were featured in the local newspapers; that both children were involved actively in their church and served as altar boy and girl; that both children spoke fluent English and were active in their community; and that her 13-year-old daughter was found to have a learning disorder and received special education. The respondent demonstrated that she was a taxpayer with steady employment; that she had purchased a home; that she had paid taxes; that she was a law abiding individual with no criminal record; and that she had significant ties to the United States. I found that the respondent established statutory eligibility for Cancellation of Removal and granted the application as a matter of discretion.

6) Matter of Padilla, Case No. A41-123-489 (May 6, 2002).

The respondent, a native and citizen of Mexico, entered the United States as an immigrant. He was subsequently convicted for several offenses including criminal sexual abuse of a minor, obstruction of justice, driving on a revoked license, and aggravated driving under the influence of alcohol. At a deportation hearing, the respondent moved to terminate the proceedings arguing that he was not deportable. The respondent also applied for a waiver of deportation and, in the alternative, for voluntary departure. Notwithstanding the respondent's extensive

family ties in the United States, I found that the nature and seriousness of the respondent's crimes, coupled with his total disregard for the laws of the United States, compelled this Court to deny his motions and applications. I entered an order that the respondent's Lawful Permanent Residence be terminated and the respondent be deported to Mexico.

7) Matter of Q-C-C\*, Case No. \* (March 25, 2002).

The respondent, a native and citizen of Colombia, was convicted of two drug possession offenses. I found that he was deportable from the United States as an aggravated felon. The respondent then applied for various forms of relief from deportation, including a Section 212(c) waiver, cancellation of removal, withholding of removal, and protection under the Convention Against Torture. The respondent contended that he could apply simultaneously for a Section 212(c) waiver as well as for Cancellation of Removal. I found that the respondent was statutorily ineligible to apply simultaneously for both forms of relief. The respondent then applied for Withholding of Removal and protection under the Convention Against Torture. I found that the respondent's drug convictions were particularly serious, thus rendering him statutorily ineligible for Withholding of Removal. I also found that even if the respondent's drug convictions were not considered to be particularly serious, he had failed to satisfy his burden of proof on the merits of his application for Withholding of Removal. In addition, I found that the respondent failed to meet his burden of proof that he would be tortured if deported to Colombia. Therefore, I denied all forms of relief and entered an order deporting the respondent to Colombia. The BIA affirmed my decision on August 1, 2002.

8) Matter of F-M\*, Case No. \* (Oral Decision rendered March 19, 2002).

The respondent, a native and citizen of Iraq, applied for asylum in the United States. The respondent, a Christian, was affiliated with the Assyrian Democratic Movement in Iraq. He presented evidence that he had participated in a play mocking the leadership of the Kurdistan Democratic Party and its friendly relations with the government of Saddam Hussein. The respondent was jailed and tortured because of his actions. I found that the respondent was persecuted in Iraq based upon his political opinion and granted his request for asylum in the United States.

9) Matter of S-B\*, Case No. \* (January 23, 2002 & September 26, 2002).

The respondent, a citizen of Bosnia, was convicted of domestic battery and aggravated driving under the influence of alcohol. The respondent argued that he was not deportable for having been convicted of two crimes involving moral turpitude. I found that the respondent's conviction for driving under the influence of alcohol while his driver's license was suspended constituted a crime involving moral turpitude. In addition, I found that the respondent's conviction for domestic battery was a crime involving moral turpitude as well. Consequently, I found that the respondent was deportable for having been convicted of two crimes involving moral turpitude. The respondent then applied for asylum and Withholding of Removal. I found that the respondent's conviction for domestic battery committed against his wife was a particularly serious crime thus rendering the respondent statutorily ineligible for asylum and Withholding of Removal. I ordered the respondent's deportation to Bosnia. On appeal, the

BIA agreed with my finding of deportability but found that the respondent's conviction for domestic battery did not constitute a particularly serious crime. The BIA then remanded the case for consideration of the respondent's application for asylum. After a hearing on the merits of the respondent's asylum claim, I entered another decision on September 26, 2002, finding that the respondent failed to satisfy his burden of proof for asylum and also denied the application as a matter of discretion. In addition, I noted that Congress, in the context of immigration law, had provided various forms of relief to the victims of domestic violence. I further opined that if the victims of domestic violence have been provided extraordinary immigration benefits not available to other aliens, logically it would follow that an alien convicted of domestic battery should be found to have committed a particularly serious crime rendering him ineligible for certain immigration benefits such as asylum in the United States. I once again ordered the respondent's deportation to Bosnia. My decision was affirmed by the BIA in a *per curiam* order on January 29, 2003.

10) Matter of L\*-, Case No. \* (June 20, 2001).

The respondent, a citizen of Viet Nam, was convicted of two burglary offenses and was sentenced to 9 years imprisonment. He moved for the termination of proceedings arguing that his crimes were not aggravated felonies. I denied the respondent's motion to terminate finding that his crimes constituted aggravated felonies under the immigration laws and precedent decisions of the Seventh Circuit Court of Appeals. The respondent then applied for Withholding of Removal and protection under the Convention Against Torture. I found that the respondent's crime was particularly serious thus barring him from Withholding of Removal. I also found that the respondent had failed to show that he would be tortured if removed to Viet Nam.

\* **NOTE:** In order to preserve the confidentiality of the asylum process, the name of the Respondent and the case number have been redacted.

- (b) a short summary and citations for all rulings of yours that were reversed or significantly criticized on appeal, together with a short summary of and citations for the opinions of the reviewing court:

**Answer:**

In Matter of Tohir, A27-916-146 (BIA October 31, 2002), and Matter of Ashraf, A76-772-130 (BIA November 1, 2002), the respondents had failed to appear for their hearings and were ordered removed *in absentia*. Their motions to reopen were denied. The Board of Immigration Appeals (BIA) reopened the matters and remanded them to the Immigration Court for a hearing.

In Matter of Oprzadek, A78-291-326 (BIA October 11, 2002), while the respondent's appeal was pending, he moved that his case be remanded because a visa petition filed on his behalf had been approved. The BIA remanded the matter so that he could apply for relief before the Immigration Court.

In Matter of S-B-, (January 23, 2002 & September 26, 2002), the respondent, a citizen of Bosnia, was convicted of domestic battery and aggravated driving under the influence of alcohol. The respondent argued that he was not deportable for having been convicted of two crimes involving moral turpitude. I found that the respondent was convicted of two crimes involving moral turpitude. The respondent then applied for asylum and withholding of removal. I found that the respondent's conviction for domestic battery committed against his wife was a particularly serious crime rendering the respondent statutorily ineligible for asylum and withholding of removal. I ordered the respondent's deportation to Bosnia. On July 18, 2002, in an unreported decision, the Board of Immigration Appeals (BIA) agreed with my conclusion that the respondent was deportable for having been convicted of two crimes involving moral turpitude. The BIA, however, found that the respondent's conviction for domestic battery was not a particularly serious crime rendering him ineligible for asylum. The BIA then remanded the matter to consider the respondent's application for asylum. After an evidentiary hearing on September 26, 2002, I entered another decision finding that the respondent failed to satisfy his burden of proof for asylum and also denied the application for asylum as a matter of discretion. In addition, I noted that Congress, in the context of immigration law, had provided various forms of relief to the victims of domestic violence. I further opined that if the victims of domestic violence have been provided extraordinary immigration benefits not available to other aliens, it would follow that an alien convicted of domestic battery should be found to have committed a particularly serious crime rendering him ineligible for certain immigration benefits such as asylum in the United States. I once again ordered the respondent's deportation to Bosnia. My decision was affirmed by the BIA in a per curiam order on January 29, 2003.

- (c) a short summary of and citations for all significant opinions on federal or state constitutional issues, together with the citation for appellate court rulings on such opinions:

**Answer:**

Immigration Courts do not rule on state constitutional issues and have no jurisdiction to entertain federal constitutional challenges to immigration laws. However, in every proceeding before the Immigration Court, every respondent is accorded due process protections as mandated by the Fifth Amendment.

17. **Public Office, Political Activities and Affiliations:**

- (a) List chronologically any public offices you have held, federal, state or local, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or nominations for appointed office for which were not confirmed by a state or federal legislative body.

**Answer:** In 2000, I was appointed by Attorney General Janet Reno as an Immigration Judge.

- (b) Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

**Answer:** No.

18. **Legal Career:** Please answer each part separately.

- (a) Describe chronologically your law practice and legal experience after graduation from law school including:

- (1) whether you served as clerk to a judge, and if so, the name for the judge, the court and dates of the period you were a clerk;

**Answer:** No

- (2) whether you practiced alone, and if so, the addresses and dates;

**Answer:** No

- (3) the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

**Answer:** United States Department of Justice, Immigration and Naturalization Service (INS), 55 East Monroe Street, Suite 1700, Chicago, Illinois 60603, Trial Attorney, 1978-1982; District Counsel, 1982-2000.

United States Department of Justice, Executive Office of Immigration Review (EOIR), 55 East Monroe Street, Suite 1900, Chicago, Illinois, Immigration Judge, 2000-present.

- (b) (1) Describe the general character of your law practice and indicate by date if and when its character has changed over the years.

**Answer:**

**IMMIGRATION JUDGE** - United States Department of Justice, Executive Office for Immigration Review (EOIR), Immigration Court, 55 East Monroe Street, Suite 1900, Chicago, Illinois 60603 (2000 – present).

As an Immigration Judge, presides over formal court proceedings. Conducts trials involving both criminal and non-criminal aliens in removal, deportation, exclusion, rescission, asylum, and bond proceedings. Renders oral and written decisions and rules on complex litigation issues relating to constitutional, criminal, labor, and administrative law under the Immigration and Nationality Act and the Code of Federal Regulations.

**DISTRICT COUNSEL** - United States Department of Justice, Immigration and Naturalization Service (INS), 55 East Monroe Street, Suite 1700, Chicago, Illinois 60603 (1982-2000).

As chief counsel for the INS in the states of Illinois, Indiana, and Wisconsin, directed all legal activities of the agency. Supervised a staff of 17 trial attorneys and two Special Assistant United States Attorney representing the United States in federal, state and administrative courts on issues relating to constitutional, criminal, labor and administrative law arising from the enforcement of the Immigration and Nationality Act.

**SPECIAL ASSIGNMENT** - American Embassy, Moscow, U.S.S.R.

Represented the United States on all issues relating to the processing of refugees from the Soviet Union. Served as legal advisor to the Consul General on all matters relating to the Immigration and Naturalization Service (September-October 1988).

**ACTING DISTRICT DIRECTOR** - United States Department of Justice, Immigration and Naturalization Service (INS), 219 S. Dearborn Street, Chicago, Illinois 60604 (May 1986 - January 1987).

As chief operating officer for the Chicago District, managed and supervised all activities of the agency in the states of Illinois, Indiana, and Wisconsin.

**ACTING APPELLATE TRIAL ATTORNEY** - United States Department of Justice, Immigration and Naturalization Service (INS), 5107 Leesburg Pike, Falls Church, Virginia 22041 (January/February 1981; May 1982).

Represented the government before the Board of Immigration Appeals on all appeals from decisions of the Immigration Courts.

**TRIAL ATTORNEY** - United States Department of Justice, Immigration and Naturalization Service (INS), 219 S. Dearborn Street, Chicago, Illinois 60604 (1978-1982).

Represented the government in deportation, exclusion, rescission, and other related hearings before immigration judges.

- (2) Describe your typical former clients, and mention the areas, if any, in which you have specialized.

**Answer:** The only client I have represented is the United States of America.

- (c) (1) Describe whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe each such variance, providing dates.

**Answer:** As a Trial Attorney, I appeared in Immigration Court daily between 1978 and 1982. In addition, I occasionally appeared with the U.S. Attorney in U.S. District Court on immigration-related litigation. I also represented the United States in U.S. District Court in Lexington, Kentucky in a class action during the Haitian refugee crisis. Between 1982-2000, I appeared in court on occasion because I was supervising and directing the courtroom activities of a staff of approximately 20 Trial Attorneys and two Special Assistant U.S. Attorneys in my capacity as District Counsel.

- (2) Indicate the percentage of these appearances in

- (A) federal courts;  
(B) state courts of record;  
(C) other courts.

**Answer:**

80% in Immigration Court  
15% in U.S. District Court  
5% in U.S. Court of Appeals

- (3) Indicate the percentage of these appearances in:

- (A) civil proceedings;  
(B) criminal proceedings.

**Answer:**

98% civil  
2% criminal



In the criminal trials, I served in an advisory capacity to the United States Attorney. However, in immigration litigation, approximately 50% of the civil cases involved criminal aliens and issues relating to criminal law and procedure.

- (4) State the number of cases in courts of record you tried to verdict or judgment rather than settled, indicating whether you were sole counsel, chief counsel, or associate counsel.

**Answer:** As a Trial Attorney with the INS, I have represented the government in Immigration Court as sole counsel in over a thousand cases resulting in final orders. I have represented the government as sole counsel in a class action lawsuit in U.S. District Court. I have served as associate counsel with the U.S. Attorney's Office in U.S. District Court in approximately 10 cases. In my capacity as District Counsel for INS, I supervised over 800 cases argued by Special Assistant U.S. Attorneys in U.S. District Court. In addition, I served as a member of the government's litigation team in over 50 cases in the Seventh Circuit Court of Appeals.

- (5) Indicate the percentage of these trials that were decided by a jury.

**Answer:** There are no jury trials in Immigration Court litigation. However, I have a solid understanding of the jury trial process.

- (d) Describe your practice, if any, before the United States Supreme Court. Please supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the U.S. Supreme Court in connection with your practice.

**Answer:** Not applicable.

- (e) Describe legal services that you have provided to disadvantaged persons or on a *pro bono* basis, and list specific examples of such service and the amount of time devoted to each.

**Answer:** As a Department of Justice attorney, I was restricted to only representing the United States in legal matters, and therefore, was not authorized to provide *pro bono* representation to others. However, during my tenure as District Counsel for the INS (1982-2000), I have actively engaged in the training of Congressional staff, States Attorneys, Bar Associations, and law enforcement agents. In my capacity as an Immigration Judge, I have served as a speaker at a seminar sponsored by the Midwest Immigrant and Human Rights Center on January 8, 2003, and provided training to *pro bono* attorneys from throughout Chicago and the Midwest representing aliens in Immigration Court proceedings relating to political asylum applications.

I have also served as a volunteer in my church and community as follows:

- Sunday School Teacher, Senior High class, North Shore Assembly of God, Skokie, Illinois (1979-1987).
- Baseball and Basketball Coach, Vernon Hills Park District, Vernon Hills, Illinois (1992-93).
- Soccer Coach, Deerfield Park District, Deerfield, Illinois (1986-1987).
- Soccer Coach, Concord Park District, Concord, New Hampshire (1976-1977).

In addition, I volunteered and provided ongoing legal education at the following events:

- Judge, John Marshall Law School, Appellate Advocacy and Advanced Research and Writing Course (Spring 1979).
- Judge, Northwestern University Law School, Moot Court Trials (Spring 1985).
- Constitutional Rights Foundation, Speaker on Citizenship in the United States District Court for Eighth Grade Students, October 18, 1989.
- American Business Women's Association, Speaker on Citizenship, February 13, 1990, Waukegan, Illinois.
- Chairman, Citizenship Day and Constitution Week Ceremonies, Citizenship Council of Metropolitan Chicago (1982-1998)

19. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, and for each provide the date of representation, the name of the court, the name of the judge or judges before whom the case was litigated and the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties. In addition, please provide the following:

- (a) the citations, if the cases were reported, and the docket number and date if unreported;
- (b) a detailed summary of the substance of each case outlining briefly the factual and legal issues involved;
- (c) the party or parties whom you represented; and
- (d) describe in detail the nature of your participation in the litigation and the final disposition of the case.

Answer:

- 1) In Obaei v. Landon, District Director, INS, No. 79 C 5130 (N.D. Ill. 1979), a group of Iranian students filed a class action seeking an injunction against an INS policy regulating the extension of student status for Iranian nationals. The temporary restraining order would have crippled the government's ability to monitor and control the admission of students during the height of the Iranian hostage crisis. I personally argued the government's position opposing the temporary restraining order. On December 7, 1979, the Honorable Frank J. McGarr denied the plaintiffs' request. The plaintiffs were represented by the law firm of Fennerty & Moscovitch.

Principal Opposing Counsel: Ruth Moscovitch, Esq.  
 Commonwealth Edison  
 440 South LaSalle Street, Suite 3300  
 Chicago, Illinois 60605  
 (312) 394-7545

- 2) In Matter of Parodi, 17 I&N Dec. 608 (BIA 1980), the respondent was twice convicted of passing counterfeit currency. He obtained a judicial recommendation against deportation (JRAD) for his second conviction and argued in Immigration Court that the JRAD on the second conviction should preclude his deportation on both convictions. I argued that since the convictions were independent of each other, a deportation charge was appropriate on the first conviction. Both the Immigration Court and the Board of Immigration Appeals (BIA) agreed with my position. The BIA designated its opinion as a precedent decision. In addition, I personally argued against a motion which the respondent filed in U.S. District Court requesting the issuance of a nunc pro tunc JRAD on the first conviction. The Honorable Prentice Marshall denied the motion on January 18, 1980 (No. 78 C 168). The respondent was represented by Virgil Mungy.

Principal Opposing Counsel: Virgil Mungy, Esq.  
 5453 West Diversey Avenue  
 Chicago, Illinois 60639  
 (773) 804-1022

- 3) In Bathelmy, et al. v. William French Smith, Attorney General of the U.S., et al., Civil No. 81-167 (E.D. Ky. 1981), a group of Haitian detainees applied for a temporary restraining order to enjoin the U.S. government from conducting exclusion and deportation hearings against them. At the time, I was detailed to Lexington, Kentucky to establish an INS legal office and to oversee litigation in expulsion proceedings. The injunction sought in this class action would have jeopardized the government's ability to conduct expulsion proceedings against these individuals and would have set a

national precedent impairing the government's ability to enforce the immigration laws of the U.S. during the height of the Haitian Boatlift Crisis. On August 24, 1981, I successfully argued in U.S. District Court that the due process rights of the plaintiffs were protected and that there was no legal basis for the granting of the injunction. On August 25, 1981, the Honorable Scott Reed denied the plaintiffs' motion for a temporary restraining order. The respondents were represented by attorneys Herbert D. Sledd, Robert E. Reeves, and John R. Leathers of Lexington, Kentucky. In addition, the plaintiffs' pleadings listed the following 19 attorneys as being of counsel: Margaret Kannesohn (Lexington, Ky.); Sylvia Lovely (Lexington, Ky.); Donna Proctor (Lexington, Ky.); the Law Firm of Brown, Bucalos & Gardner (Lexington, Ky.); the Law Firm of Allison, Soreff & Garber (Louisville, Ky.); James Lowry (Lexington, Ky.); James Berry (Lexington, Ky.); Willie E. Peele (Frankfort, Ky.); Paul Reilender (Lexington, Ky.); Phil Hunter (Lexington, Ky.); Theodore Berry (Lexington, Ky.); Agyenium Boateng (Lexington, Ky.); Gwen Banachowski (Louisville, Ky.); William Shelton (Lexington, Ky.); Bing I. Bush (Lexington, Ky.); Anthea M. Boarman (Lexington, Ky.); the Law Firm of Goldman & Davis (Lexington, Ky.); Ernesto Scorsone (Lexington, Ky.).

Principal Opposing Counsel: Herbert D. Sledd, Esq.  
250 West Main Street  
Lexington, Ky. 40507  
(859) 233-2012

- 4) In Matter of Frenescu, 18 I&N Dec. 244 (BIA 1982), the respondent was convicted of burglary and the government sought his removal from the U.S. as a result of that conviction. I argued that the crime of burglary was a crime involving moral turpitude and the Immigration Court agreed with my argument. On appeal, the Board of Immigration Appeals ruled that the respondent's burglary offense was not a "particularly serious crime" which would render him ineligible for relief. The significance of this decision was that it was a case of first impression and it has been cited extensively in other decisions. The respondent was represented by attorney Juan M. Soliz of the Legal Assistance Foundation of Chicago.

Principal Opposing Counsel: Juan M. Soliz,  
(last known address) 1661 South Blue Island Avenue  
Chicago, Illinois 60608  
(telephone number unknown)

- 5) In Harris v. Moyer, a multiple party, multiple issue case, I represented the INS and the District Director of the Chicago District of the INS in a matter involving personnel practices. A Merit Systems Protection Board (MSPB) hearing official issued an adverse ruling against the INS. On appeal to the full MSPB, I served as a legal advisor and assisted in the preparation of the government's appeal which resulted in the reversal of the hearing official's initial finding. (MSPB Docket No. CH 315H8410125). The U.S. Court of Appeals for the Federal Circuit upheld the MSPB decision. Harris v. MSPB, Appeal No. 85-2167 (Dec. 23, 1985). This was an important case for the INS since it involved issues relating to the termination of probationary employees.

I also represented the INS District Director who was being investigated by the Special Counsel for MSPB for alleged prohibited personnel practices. On March 21, 1985, the Special Counsel declined prosecution and terminated the investigation (OSC File 10-4-00717).

In addition, I provided legal and technical advice to the Assistant U.S. Attorney in defending an action brought in the U.S. District Court in Chicago for alleged Constitutional violations in the termination process. Harris v. Moyer, No. 85 C 02228 (N.D. Ill. 1986). The Judge who presided over this matter was the Honorable James B. Moran and the case was eventually settled.

Co-counsel: Linda Wawzenski  
Assistant U. S. Attorney  
219 S. Dearborn Street  
Chicago, Ill. 60604  
(312) 353-1994.

Principal Opposing Counsel: Douglas P. Roller, Esq.  
321 South Plymouth Court, Suite 950  
Chicago, Illinois 60604  
(312) 337-6368

- 6) In U.S. Department of Justice v. Ready-Man, Inc., Case No. CHI-88-274A-0460 (INS Chicago 1988), I personally directed the litigation and negotiated the settlement of the largest employer sanctions case since the passage of the Immigration Reform and Control Act of 1986 (IRCA). The case involved 1520 violations of the newly enacted employer sanctions laws. The importance of this case was that it produced a settlement which resulted in both a significant fine and a model for cooperation between the INS and the business community whereby the employer modified its personnel practices to comply with the law. This settlement was used as a model for nationwide settlements of employer sanctions cases by the INS.

Principal Opposing Counsel: Joseph Hasman, Esq.  
Peterson and Ross  
200 East Randolph, Suite 7300  
Chicago, Illinois 60601  
(312) 946-4322

- 7) In U.S. Department of Justice v. Esposito, A27-895-148 (INS Chicago 1989), the respondent was a major organized crime figure from Italy. He had 12 outstanding warrants in Italy for murder. When extradition proceedings against Esposito had to be terminated after 18 months due to a technicality, the INS took Esposito into custody. Deportation proceedings were instituted against Esposito based upon his use of fraudulent documents to procure his entry into the United States. I successfully supervised the

litigation relating to Esposito's deportation. The Immigration Court, the Board of Immigration Appeals, and the Court of Appeals for the 7<sup>th</sup> Circuit ruled in favor of the government ordering Esposito's deportation. (Esposito v. INS, 936 F.2d 911 (7<sup>th</sup> Cir. 1991)(*reh'g. en banc denied* August 8, 1991).

Co-counsel: Craig Oswald, Esq.  
Deputy Chief Assistant U.S. Attorney  
219 South Dearborn Street  
(312) 353-5300

Principal Opposing Counsel: Philip Parenti, Esq.  
600 South Dearborn Street, Suite 214  
Chicago, Illinois 60605  
(312) 372-8882

- 8) In Pilch v. INS, 129 F.3d 169 (7<sup>th</sup> Cir. 1997, Rehearing denied January 16, 1998), the respondent was denied suspension of deportation relief by the Immigration Court and the Board of Immigration Appeals. He filed a petition for review before the 7<sup>th</sup> Circuit Court of Appeals. I served as part of the litigation team which successfully argued that the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) precluded judicial review of discretionary decisions. As Chief Counsel for the Chicago District of the INS, I participated in the development of litigation strategy and provided litigation assistance to David McConnell, the Department of Justice attorney assigned to argue the matter before the Court of Appeals. The 7<sup>th</sup> Circuit panel consisted of the Honorable Judges Cummings, Flaum and Kane. This was an important decision on a case of first impression subsequent to the passage of the IIRIRA.

Co-counsel: David McConnell, Esq.  
Deputy Chief, Civil Division  
U.S. Department of Justice  
Office of Immigration Litigation  
1331 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
(202) 616-4881

Principal Opposing Counsel: Royal Berg, Esq.  
33 N. LaSalle Street, Suite 2300  
Chicago, Illinois 60602  
(312) 855-1118

- 9) In Turkhan v. Perryman, 188 F.3d 814 (7<sup>th</sup> Cir. 1999), the respondent filed a writ of habeas corpus seeking review of a final order of deportation by the Board of Immigration Appeals. The United States District Court denied the writ and the alien appealed to the 7<sup>th</sup> Circuit. The Court of Appeals held that the District Court had jurisdiction to review the petition under the general habeas statute. The Appellate Court agreed with the government and further ruled that the retroactive application of a statute precluding judicial review of final orders against criminal aliens did not violate the alien's due

process and equal protection rights. I served on the litigation team with Papu Sandhu of the Department of Justice. As Chief Counsel for the Chicago District of the INS, I participated in the development of litigation strategy and provided litigation assistance to the Department of Justice attorney assigned to argue the matter before the Court of Appeals. The 7<sup>th</sup> Circuit panel consisted of the Honorable Judges Posner, Kanne and Evans.

Co-counsel: Papu Sandhu, Esq.  
Civil Division, U.S. Department of Justice  
Office of Immigration Litigation  
1331 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
(202) 616-9357

Principal Opposing Counsel: Royal Berg, Esq.  
33 N. LaSalle Street, Suite 2300  
Chicago, Illinois 60602  
(312) 855-1118

- 10) In Malek v. INS, 198 F. 3<sup>rd</sup> 1016 (7<sup>th</sup> Cir. 2000), the respondent was convicted of two counts of wire fraud and one count of misuse of a social security number. The respondent was found deportable and filed for asylum and withholding of deportation. The Immigration Court and the Board of Immigration Appeals found that the respondent was not credible and denied his applications for relief. I served on the litigation team which successfully argued that the 7<sup>th</sup> Circuit Court of Appeals should not disturb the credibility determinations of the Immigration Court and the Board of Immigration Appeals. As Chief Counsel for the Chicago District of the INS, I participated in the development of litigation strategy and provided litigation assistance to Nora Ascoli Schwarz, the Department of Justice attorney assigned to argue the matter before the Court of Appeals. The 7<sup>th</sup> Circuit upheld the Board of Immigration Appeals' determination that the alien's testimony was not credible and that the Board's decision was supported by substantial evidence. The 7<sup>th</sup> Circuit Panel consisted of the Honorable Judges Coffey, Easterbrook and Rovner.

Co-counsel: Nora Ascoli Schwarz, Esq.  
Civil Division, U.S. Department of Justice  
Office of Immigration Litigation  
1331 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
(202) 616-4888

Principal Opposing Counsel: Robert DeKelaita, Esq.  
6600 North Lincoln Avenue, Suite 310  
Lincolnwood, Illinois 60712  
(847) 677-9501

20. **Criminal History**: State whether you have ever been convicted of a crime, within ten years of your nomination, other than a minor traffic violation, that is reflected in a record available to the public, and if so, provide the relevant dates of arrest, charge and disposition and describe the particulars of the offense.

**Answer**: No.

21. **Party to Civil or Administrative Proceedings**: State whether you, or any business of which you are or were an officer, have ever been a party or otherwise involved as a party in any civil or administrative proceeding, within ten years of your nomination, that is reflected in a record available to the public. If so, please describe in detail the nature of your participation in the litigation and the final disposition of the case. Include all proceedings in which you were a party in interest. Do not list any proceedings in which you were a guardian *ad litem*, stakeholder, or material witness.

**Answer**: No.

22. **Potential Conflict of Interest**: Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts of interest during your initial service in the position to which you have been nominated.

**Answer**: I have no financial conflict of interest nor do I anticipate any potential financial conflict of interest. However, if a potential conflict of interest arises, I will abide by all canons and rules of ethics in order to avoid any appearance of a conflict of interest.

23. **Outside Commitments During Court Service**: Do you have any plans, commitments, or arrangements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

**Answer**: No.

24. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding the nomination, including all salaries, fees, dividends, interest, gifts, rents, royalties, patents, honoraria, and other items exceeding \$500. If you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here.

**Answer**: See the attached copy of my Financial Disclosure Report.

25. **Statement of Net Worth**: Complete and attach the financial net worth statement in detail. Add schedules as called for.



**Answer:** See the attached copy of my financial net worth statement.

26. **Selection Process:** Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts?

(a) If so, did it recommend your nomination?

**Answer:** Not applicable.

(b) Describe your experience in the judicial selection process, including the circumstances leading to your nomination and the interviews in which you participated.

**Answer:** I completed all requisite forms. I was first interviewed by Senator Peter Fitzgerald's staff. Subsequently, I was interviewed by Senator Fitzgerald. I was also interviewed by the Justice Department's Office of Legal Policy and the White House Counsel's Office. In addition, I was interviewed by the FBI as part of its background investigation in the nomination process.

(c) Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking or seeking a commitment as to how you would rule on such case, issue, or question? If so, please explain fully.

**Answer:** No.